

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	
)	
)	Case No.4:13-cr-00088
v.)	
)	
SEAN MICHAEL WARD,)	GOVERNMENT’S
)	SENTENCING MEMORANDUM
Defendant.)	

SENTENCING MEMORANDUM

The United States submits the following information regarding the sentencing hearing scheduled for 2:00 p.m. on August 22, 2014.

The United States anticipates that the court will need to resolve three issues at sentencing: (1) whether the Defendant receives a two level increase pursuant to USSG §2K2.1(b)(4)(A) because the firearm was stolen. This enhancement applies even if a defendant did not steal the firearm personally or even know that it was stolen. *United States v. Martinez*, 339 F.3d 759 (8th Cir. 2003); *United States v. Hernandez*, 972 F.2d 885 (8th Cir. 1992); (2) whether the Defendant receives four (4) levels for the number of firearms pursuant to USSG §2K2.1(b)(1)(B); and (3) whether the Defendant receives four (4) levels for possessing the firearms in connection with another felony pursuant to USSG §2K2.1(b)(6)(B); these two enhancements will be proved by the testimony of Sarah Clendaniel, Wynter Hudson, and James Block who were all involved in the burglary. The application note 14. “*In Connection With*”- (i) states:

Apply ... in a case in which a defendant who, during the course of a burglary, finds and takes a firearm, even if the defendant did not engage in any other conduct with that firearm during the course of the burglary.

Following the government position as set forth above the defendant starts at a level 24

pursuant to USSG§ 2K2.1(a)(2); plus four (4) levels for the number of firearms pursuant to USSG §2K2.1(b)(1)(B); plus two levels for the stolen firearm, USSG §2K2.1(b)(4)(A); plus four (4) levels for possession of firearms in connection to another felony, USSG §2K2.1(b)(6)(B); minus three levels for acceptance of responsibility, USSG §3E1.1; for a total offense level of twenty-nine (29) Category VI for a sentencing guideline range of 151 to 188 or 120 because of the statutory maximum sentence in this case.

Nicholas A. Klinefeldt
United States Attorney

By: /s/ Cliff Wendel
Cliff Wendel
Assistant U.S. Attorney
U.S. Courthouse Annex, Suite 286
110 East Court Avenue
Des Moines, Iowa 50309
Telephone: 515-473-9300
Telefax: 515-473-9292
E-mail: cliff.wendel@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2014, I electronically filed the foregoing with the Clerk of Court using the CM ECF system. I hereby certify that a copy of this document was served on the parties or attorneys of record by:

☐ U.S. Mail ☐ Fax ☐ Hand Delivery
☒ ECF/Electronic filing ☐ Other means

UNITED STATES ATTORNEY

By: /s/ M. Jayne
Legal Assistant